

APPEAL NO. 023267
FILED JANUARY 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 6, 2002. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) did not sustain a compensable injury in the form of a repetitive trauma injury and that she has not had disability. The claimant appealed and the respondent (carrier) responded.

DECISION

The hearing officer's decision is affirmed.

The claimant claimed that she sustained a repetitive trauma injury to her shoulders as a result of performing her work activities as a delivery driver for a flower shop. An occupational disease includes a repetitive trauma injury, but does not include an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease. Section 401.011(34). The claimant had the burden to prove that she sustained a repetitive trauma injury, which is defined in Section 401.011(36) as "damage or harm to the physical structure of the body occurring as the result of repetitious, physically traumatic activities that occur over time and arise out of and in the course and scope of employment." As noted by the claimant, in Texas Workers' Compensation Commission Appeal No. 961008, decided July 1, 1996, the Appeals Panel stated "it is not required that it be proven the disease is inherent in or present in a greater degree when the evidence sufficiently proves that repetitive traumatic work activities occurred on the job and there is a causal link between the activities and the harm or injury." In the instant case, the hearing officer found, among other things, that "The Claimant did not prove sufficient recurring, physical trauma activities in her work to cause the overuse of her shoulders, eventually resulting in an impingement syndrome in one or both shoulders." The hearing officer concluded that the claimant did not sustain a compensable repetitive trauma injury. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We conclude that the hearing officer's decision is supported by sufficient evidence and is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986). Without a compensable injury, the claimant would not have disability as defined by Section 401.011(16).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **UNION STANDARD INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**WILLIAM CLARK THORNTON
122 WEST CARPENTER FREEWAY, SUITE 350
IRVING, TEXAS 75039-2008.**

Robert W. Potts
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge